

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL A. KELLY,

Plaintiff,

v

LT. KATIE ROLLAND,

Defendant.

Case No. 16-cv-10704

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

**ORDER ADOPTING REPORT AND RECOMMENDATION AND TRANSFERRING
CASE TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO**

Plaintiff Matthew Kelly filed this pro se civil rights action on February 26, 2016. Kelly alleges that Defendant Lieutenant Kelly Rolland, a jail commander at the Gem County Jail in Emmett, Idaho, who is responsible for determining whether mail gets delivered to inmates, violated his First Amendment right to freedom of speech and his Fourteenth Amendment due process rights by failing to deliver his Valentine's Day mail to Kellie Drake, an inmate in the Gem County Jail.

On March 9, 2016 Magistrate Judge Patricia T. Morris issued a report recommending that the above-captioned matter be *sua sponte* transferred to the district of Idaho. ECF No. 9. Judge Morris reasoned that a *sua sponte* transfer is appropriate under *Carver v. Knox County, Tenn.*, 887 F.2d 1287, 1291 (6th Cir. 1989), and that the district of Idaho provides a proper and more convenient forum under 28 U.S.C. §§ 1391(b) and 1404(a).

Although Magistrate Judge Morris's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to

the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 49, is **ADOPTED**.

It is further **ORDERED** that the above-captioned matter is **TRANSFERRED** to the United States District Court for the District of Idaho.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 4, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 4, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager